

Mary

Karen Hickey

From: Bord
Sent: Friday 1 April 2022 15:07
To: Appeals2
Subject: FW: Ref: ABP-312933-22
Attachments: TO - An Bord Pleanala (2022-03-27) [Sworn].pdf

-----Original Message-----

From: Litigation [REDACTED]
Sent: Friday 1 April 2022 15:03
To: Bord <bord@pleanala.ie>
Subject: Ref: ABP-312933-22

Dear Liam and whomever it may concern,

With reference to the above case number, please find attached our submission outlining our observations in accordance with Section 129 of the Planning and Development Act, 2000, (as amended).

Many thanks for your attention in this matter and should you require anything further don't hesitate to get in touch.

Best regards,
Robert Mullins and John Gibbons

FOR AND ON THE RECORD

c/o 43 Lerrview
Castledermot
Co. Kildare

27th Day of March 2022 – 9:11PM GMT

Via Registered and tracked Electronic Mail, and hand delivery

TO:
An Bord Pleanála, 64 Marlborough Street, Dublin 1, Ireland.

Your Case Number: ABP-312933-22
Planning Authority Reference Number: S5/22/02

Dear Liam,

Many thanks for your letter of the 7th of March 2022 and enclosed copy of the above referenced referral under the Planning and Development Act, 2000, (as amended), and for allowing us the opportunity to respond.

At this point we wish to make our submission and outline our observations in accordance with Section 129 of the Planning and Development Act, 2000, (as amended).

In the interests of clarity and for the avoidance of doubt or confusion, we purchased the land at Pollerton Little on 10th September 2021. We were already very familiar with the land having performed grass-cutting and maintenance work for the previous owner.

For further clarity and with reference to Alison Scanlon's assertion that "this is the third Section 5 Declaration application made on this same site since August 2021 for similar declaration questions... for which decision was made by the Planning Authority", it is pertinent to point out that only SEC5/21/15 and SEC5/22/02 were made by us, the previous application, SEC5/21/12, having been made by John Gibbons on behalf of a third party on 31st August 2021.

Furthermore, it is important to note that Carlow County Council appear to have misunderstood our paperwork as SEC5/21/15 and SEC5/22/02 were not 'applications' given that our activities are not legally classed as 'development', but were in fact declaratory statements outlining, in the absence of an applicable Local Authority certificate and given the fact that Carlow County Council appeared intent on pursuing us in the mistaken belief that we were in breach of planning laws, our requirement that a Declaration be issued to us reflecting the demonstrable and demonstrated fact that our land is not development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and furthermore but notwithstanding the above, that stated activity would indeed by default be legally and lawfully exempt from Planning Permission.

We also point out that we did not pose questions in our Declarations but simply put the facts of the matter on the record. Carlow County Council appear to be under the impression and indeed constantly refer to our numbered points in these documents as 'questions' but this is clearly not the case and entirely changes the dynamic of this matter when the prejudicial lens applied by Carlow County Council and it's agents is removed and the correct and factual light is shone on the case.

We did not come into possession of the land until September 2021, subsequent to the first application. We note that Carlow County Council have attached us to the paperwork relating to SEC5/21/12 and in their submission repeatedly and incorrectly assert that we are the applicants of same, a misrepresentation of the facts to which we take grave exception.

We also point out that a determination has not been made by Carlow County Council on SEC5/22/02, leaving SEC5/21/15 as the only document submitted by us upon which a determination has actually been made. Our reason for making a second submission was that, having received Carlow County Council's response to SEC5/21/15 we noticed that it contained a number of glaring errors, omissions and contradictions upon which their decision rested, ultimately resulting in a Declaration that did not appear to be grounded in law. Having sought legal advice on the matter we therefore made a new, similar submission, with some amendments and explanations made in the interests of further clarity, in order to provide Carlow County Council with an opportunity to rectify the situation.

However, it now appears that, based on their submissions, Carlow County Council have taken a prejudicial approach to our Declarations, eschewing critical examination of same and have apparently abdicated responsibility for correcting their errors and making the only legally sound decision, that being a Declaration of their own reflecting the demonstrated fact that our land is not development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and furthermore but notwithstanding the above, that stated activity would indeed be legally and lawfully exempt from Planning Permission.

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FOR AND ON THE RECORD

The basis on which Carlow County Council's above referenced referral is made, stands on the following three points made in our submissions:

- a) The new, non-permanent wood-clad cabin on block pad foundation, measuring 25sq.m., as per the prescribed and Declared description of Carlow County Council, is in place for the purpose of acting as a place of worship. Given the historically long-standing ecclesiastical importance of the land as a spiritual locus and regular place of worship, a fact that pre-dates the 12th Century Anglo-Norman invasion of the land - this, in point of fact being the primary motive in our acquisition of the site – there is no material change of use of the site, thereby excluding it from being development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and ergo rendering it exempt from Planning Permission.
- b) Furthermore, the new, non-permanent wood-clad cabin on block pad foundation, measuring 25sq.m., is in place with the intended purpose of acting as place of worship as per Class 15 in Part 1 of Schedule 2 in the Planning and Development Regulations 2001 (as amended), wherein it does refer to a "temporary structure for occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction". In the interests of clarity we deem it prudent to point out that the Legislation pertaining to same does not include the words 'existing', pre-existing' and/or related synonyms.
- c) The improvement of the pre-existing gravel way and construction of a private footpath not exceeding 3 metres is exempt as per Class 13 in Part 1 of Schedule 2 in the Planning and Development Regulations 2001 (as amended). It should also be pointed out that said way was in existence and had been improved upon prior to the cabin being in place, ergo it is not ancillary to the aforementioned cabin, the latter being chronologically and materially secondary to the gravel way.

We note that Alison Scanlon's quotation of same to you in her cover letter to An Bord Pleanála does not match the above in its entirety, nor does the report of Pdraig O'Shea and Anita Sweeney in relation to SEC5/22/02, something that we are happy to assume can be put down to simple clerical error.

In consideration of the relevant documentation included in Carlow County Council's referral to An Bord Pleanála, and with particular reference to the report of Pdraig O'Shea and Anita Sweeney in relation to SEC5/22/02, wherein there appears to be no critical examination of our submission, and the report of Pdraig O'Shea & Anita Sweeney in relation to SEC5/21/15, we now wish to make the following factual observations:

With specific reference to SEC5/21/15, **section 8) Assessment** and the italicised quotes therein:

"A total of three questions are presented in the referral received"

In point of fact, we made three factual statements, rather than asking questions, as the legislation pertaining to this matter is clear and unambiguous, something to which we consistently make reference.

"An area of the site which is loosely graveled and includes a driveway from the entrance off the R448."

The entrance gate off the R488 is sealed shut and not in use. There is no driveway but rather there is a closed, private path which improves upon an existing way and presumably used for vehicular access in the past, hence the gate. It is noted that Carlow County Council in the past 18 months have made improvements to the public footpath immediately outside the perimeter of the land, including a dip/rampway allowing for vehicular access to the land from the R448.

"There is also a second gravelled access road at the front end of the site, set back from the front boundary running parallel to same."

There is no second access road but rather there is a continuation of the path referenced in the above point. The path terminates at the neighbouring private property and provides no public access. Regarding the original, sparsely gravelled pathway, we have no idea how long this has been on the land, or for what purpose it was used as it was completely overgrown and not apparent to anyone until the very long and overgrown meadow-grass was cut. In fact, much of the pathway was under a light layer of soil upon which the grass itself grew. Given that it was us carrying out this work for the previous owner, we have first-hand cognisance of same. It may also be helpful or pertinent to point out that whilst undergoing wildflower planting at the rear of the land, we uncovered a large amount of gravel, shale, sand and other stone running adjacent to the boundary with Carlow Golf Club, as if to form another path and on foot of our investigations seemingly linked to work carried out by Carlow County Council on the land in the past. We have elected not to improve upon this pathway, preferring instead to plant the area with wildflowers and organic produce for our own private use.

"At the time of the site inspection it was not evident what the wood-clad cabin or overall site was being used for."

At time of the alleged site inspection we had already informed Carlow County Council, in writing, as to the use of the cabin. This was also included in our Section 5 Declaration, a fact that is extremely important yet one which Carlow County Council appear to have completely ignored, this along with the clarity proffered by us regarding the clear negation of their alleged issue regarding a material change of use of the site.

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"As per the Planning Report on for Section 5 Declaration S521/12, the Planning Authority notes that the existing structure on site is a new, non-permanent, wood-clad cabin on a block pad foundation that constitutes 'development' within the meaning ascribed to same in Section 3 of the Act. In accordance with Section 3 of the Act the use of land shall be deemed to have materially changed when the use includes the placing or keeping of any vans or other objects, whether or not moveable and whether or not collapsible."

We note that the Planning Authority appear to be using a factually incorrect previous report, one which was not made by us, as the basis for this one, thus demonstrating ignorance of the detail in this submission and thereby prejudicing us in the matter. Also, given that the cabin existed on the land prior to our ownership and was already in use as a place of occasional worship and religious instruction, it is patently clear that there has been no material change of use of the structure or land, this notwithstanding the ancient and historical use of the land for same.

Given that Carlow County Council are relying specifically on Section 3(2)(b)(i) of the Act, it is crucial for us to point out their deliberate omission of the second half of that paragraph, thus entirely excluding context and attempting to rewrite the law. The entire paragraph reads, 'the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, **for the purpose of caravanning or camping or habitation or the sale of goods**'. When this paragraph is included in its complete form, and given that none of this applies in this case, it becomes apparent that the existing structure on the site does NOT constitute 'development' within the meaning ascribed to same in Section 3 of the Act, that Carlow County Council are entirely incorrect in their assertion and raises the question as to whether or not they are engaging in fraudulent misrepresentation.

"The second matter to note is that the question posed has misinterpreted the provisions of Class 15 which is contained in Part 1 of Schedule 2 of the Regulations. Class 15 is one of a number of Classes of exempted development that come under the heading of "Temporary Structures and Uses". However, Class 15 only applies to temporary uses and specifically temporary uses for an existing school, hall, club, art gallery, museum, library, reading room, gymnasium or other building that would normally be used for public worship/religious instruction such as a church. In this regard, the exact wording of Class 15 is "occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction". As a new, non-permanent structure on the site, the wood-clad cabin does not come within the meaning of any of the existing buildings/structures referred to in Class 15, notwithstanding the alleged use of the land stated by the applicants as a 'spiritual locus and regular place of worship that pre-dates the 12th Century Anglo-Norman Invasion'."

On our part, there is absolutely no misinterpretation of the provisions of Class 15. The laws, Acts, Statutes and Regulations of Ireland are clear, unambiguous, to be taken literally and are not open to interpretation. Furthermore the laws, Acts, Statutes and Regulations cannot be adjusted, amended, or excluded (partially or in their entirety) save by the Legislature and any attempt to do so is of serious offence. The above attempt by Carlow County Council to accuse us of such a flagrant and unethical practice is a clear attempt to belittle our case and obfuscate the matter in a manner that is clearly prejudicial to us.

It must be pointed out however, that it appears to be the case that Pdraig O'Shea and Anita Sweeney themselves are choosing to interpret the provisions of Class 15, wherein they state that Class 15 "only applies to temporary uses", completely ignoring the fact that temporary structures are referred to both in the heading and the body with specific reference to "public worship or religious instruction", without any material reference whatsoever to Carlow County Council's interpretation of and attempt to actually re-write same.

Furthermore and notwithstanding the fact that Carlow County Council themselves previously and on the Record state that the cabin is pre-existing, there is absolutely no mention of the word 'existing' wherein the exact wording of Class 15 is "occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction" and Carlow County Council are inserting additional wording to suit themselves, in effect re-writing the law. This is extremely serious.

The fact is that the non-permanent, i.e. temporary, cabin clearly and unambiguously comes within the meaning of "any structure normally used for public worship or religious instruction".

This repeatedly selective and disingenuous approach to the matter by Carlow County Council is highly prejudicial to us and a very serious matter. The law is clear when stating that under the category of 'Temporary Structures and Uses', Class 15 applies to "any structure normally used for public worship or religious instruction" and does not place any further limitations on either of the above. Given that our cabin is a temporary structure, is normally used for religious instruction and facilitates occasional social activity related to same, it is very clear that it falls under Class 15.

We note that all of the above is notwithstanding the clear, unambiguous and demonstrated fact that under the Statutory and clearly defined meaning ascribed to the word itself, our activities do not comprise 'development' in the first instance.

"From a review of the Act and Regulations, there are no relevant exempted development provisions applying to the placement of the wood-clad cabin on the site and the structure does not have the benefit of planning permission. For these reasons the structure is considered to compromise unauthorised development."

As we have previously demonstrated that we do not fall under the Statutory definition of 'development', it does not stand to reason and is demonstrably untrue that the structure can comprise unauthorised development and the consideration of Carlow County Council in this regard is misplaced.

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"It is considered that sufficient information has not been provided to enable a determination to be made on whether the stated improvement to a pre-existing gravel way and construction of a private footpath not exceeding 3 metres comes within the scope of Class 13."

Given that an alleged inspection was carried out on 12/12/21, we were not requested at any point to provide further information to Carlow County Council and in the absence of any legal requirement to do so, it is clear that we fulfilled all Statutory obligations in this regard. Furthermore we must point out that made repeated attempts both on the phone and in writing to engage further with Carlow County Council in any attempt to discuss and resolve the matter amicably, all of which were either ignored or rejected. We note that this important context has been omitted from Carlow County Council's submissions.

Class 13 is clear and unambiguous wherein it does state, "The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving" provided that "the width of any such private footpath or paving shall not exceed 3 metres" and given the facts it is equally clear that Class 13 applies in this case. Carlow County Council's considerations must be framed by, guided by and come within the scope and restrictions of the law and it is abundantly clear that this is not the case here.

"From a review of Google Streetview imagery for the years 2009, 2011, 2014 and 2018, the entirety of the site area appears as greenfield under grass, and the existence of an overgrown gravel way or footpath cannot be discerned. In addition, apart from a covering letter, no other details, plans or other particulars are provided regarding the stated overgrown gravel way, footpath or regarding the current gravelled driveway and access road."

In light of the fact that the existence of the original pathway was not apparent to anyone until such a time as the grass was cut short, an internet search is of no evidential value whatsoever. Furthermore and given the fact that Carlow County Council did not request any further information in this regard, which gives added credence to our assertion that we have been prejudiced in this matter. In this regard, inter alia, we have attached a sworn Affidavit laying down the truth in law, which Carlow County Council are clearly unable to rebut, given their stated lack of knowledge of the matter.

"Irrespective of whether the gravelled driveway and access road come within the scope of Class 13, it is considered the unauthorised development status of the wood-clad cabin triggers the restrictions on exemptions in Article 9 of the Regulations. Article 9(1)(a)(viii) provides that development to which the Classes of exempted development in Schedule 2 of the Regulations apply (i.e. Class 13), shall not be exempted where the development would "consist of or comprise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is unauthorized use". It is apparent that the stated repair and improvement of a previously overgrown gravel way is connected with and ancillary to the placement and use of the wood-clad cabin on the site. For this reason, it is considered that the restrictions on exemptions in Article 9(1)(a)(viii) would apply."

Given our previous assertions and in light of the clear, demonstrative and irrefutable fact that there exists no legally-grounded foundation for Carlow County Council's allegation that the cabin constitutes 'development' and further that we have demonstrated the opposite to be the case, it is glaringly apparent that the cabin cannot be 'unauthorised' as authorisation is not in fact required, ergo the restrictions on exemptions in Article 9(1)(a)(viii) cannot be triggered and do not apply.

We further point out that that the pathway was in existence and had been improved upon prior to the cabin being put in place, ergo it is not ancillary to the aforementioned cabin, the latter being chronologically and materially secondary to the gravel way, thus rendering Carlow County Council's assertion that "the stated repair and improvement of a previously overgrown gravel way is connected with and ancillary to the placement and use of the wood-clad cabin on the site" completely moot. We have previously pointed this out to Carlow County Council and we reiterate that work on the pathway took place separate to the placement of the cabin.

We also note the claims of Carlow County Council that this matter is subject to legal proceedings. This is something we have no knowledge of, have not been informed of and will be addressing separately as it raises further serious questions regarding the practices of Carlow County Council and whether or not they are acting in legal controversy and engaging in illegality as it is true that we have been harassed and threatened due to their menacing behavior, which has resulted in a hugely negative impact on our mental health and an unquestionable loss of our enjoyment of life. It has also come to our attention that two separate third parties, neither of whom have anything to do with this case, have been issued legal threats relating to the matter by Carlow County Council and are also in breach of a number of GDPR laws in this regard, inter alia.

In conclusion, it is the case that Carlow County Council must work within the strict, literal and unambiguous confines of the relevant Acts and Statutes and the laws of Ireland, something that has manifestly not been the case in this matter and we wish to put on record our grave concerns concerning same and our requirement that we be furnished with documentation acknowledging the demonstrable and demonstrated fact that our land is not development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and furthermore but notwithstanding the above, that stated activity is indeed legally and lawfully exempt from Planning Permission, in order that we can finally conclude this matter.

Finally, we thank you for your time and consideration in this matter and wish to express our willingness to meet in person to discuss any aspect of our submission, if required. We await your response in anticipation of what we

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sincerely hope will be an engaged, amicable and mutually satisfactory resolution to the matter.

Without frivolity or vexation and with our sincere best wishes,

By:

A handwritten signature in black ink, appearing to be "Robert Mullins & John Gibbons", with a long horizontal line extending to the right.

Robert Mullins & John Gibbons

Robert Mullins, John Gibbons

Deponents

-and-

Carlow County Council

Respondents

Affidavit of Robert Mullins and John Gibbons

We, Robert Mullins and John Gibbons, of 43 Lerrview, Abbeylands, Barnhill, Castledermot, Co. Kildare, gentlemen aged eighteen years and upwards, with first-hand knowledge of the facts herein, MAKE OATH and with reference where applicable to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended), inter alia, and say as follows:-

1. That Carlow County Council appear to have misunderstood our paperwork. SEC5/21/15 and SEC5/22/02 were not 'applications' given that our activities are not legally classed as 'development' but were in fact declaratory statements outlining, in the absence of an applicable Local Authority Certificate and given the fact that Carlow County Council appeared intent on pursuing us in the mistaken belief that we were in breach of planning laws, our requirement that a Declaration be issued to us reflecting the demonstrable and demonstrated fact that our land is not development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and furthermore but notwithstanding the above, that stated activity would indeed by default be legally and lawfully exempt from Planning Permission.
2. That we did not pose questions in our Declarations but made statements putting the facts of the matter on the record.
3. That given that Carlow County Council are clearly under the impression and indeed constantly refer to our numbered points in these documents as 'questions', we say, given that we posed no questions, that this is manifestly not the case and entirely skews the dynamic of the matter, thus prejudicing the case against us.
4. That Alison Scanlon is incorrect in her claim that "this is the third Section 5 Declaration application made on this same site since August 2021".
5. That we did not come into possession of the land in question until September 2021, subsequent to the first, third party submission to Carlow County Council.
6. That Carlow County Council are incorrect in their claim that we are the applicants relating to Case SEC5/21/12 and that this is a fraudulent misrepresentation of the facts.
7. That a determination has not been made by Carlow County Council on SEC5/22/02, leaving SEC5/21/15 as the only document submitted by us upon which a determination has actually been made.
8. That Carlow County Council's based their response and decision in Case SEC5/21/15 upon a number of glaring and crucial errors, omissions and contradictions.
9. That Carlow County Council have taken a prejudicial stance towards us.
10. That the only legally sound decision, that being a Declaration of their own reflecting the demonstrated fact that the work and use of our land is not development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and that we are legally and lawfully exempt from Planning

Permission in this regard.

11. That the basis on which Carlow County Council's referral to An Bord Pleanála is made, is hinged upon the following three statements made in our submissions:
 - a. The new, non-permanent wood-clad cabin on block pad foundation, measuring 25sq.m., as per the prescribed and Declared description of Carlow County Council, is in place for the purpose of acting as a place of worship. Given the historically long-standing ecclesiastical importance of the land as a spiritual locus and regular place of worship, a fact that pre-dates the 12th Century Anglo-Norman invasion of the land - this, in point of fact being the primary motive in our acquisition of the site – there is no material change of use of the site, thereby excluding it from being development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and ergo rendering it exempt from Planning Permission.
 - b. Furthermore, the new, non-permanent wood-clad cabin on block pad foundation, measuring 25sq.m., is in place with the intended purpose of acting as place of worship as per Class 15 in Part 1 of Schedule 2 in the Planning and Development Regulations 2001 (as amended), wherein it does refer to a "temporary structure for occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction". In the interests of clarity we deem it prudent to point out that the Legislation pertaining to same does not include the words 'existing', 'pre-existing' and/or related synonyms.
 - c. The improvement of the pre-existing gravel way and construction of a private footpath not exceeding 3 metres is exempt as per Class 13 in Part 1 of Schedule 2 in the Planning and Development Regulations 2001 (as amended). It should also be pointed out that said way was in existence and had been improved upon prior to the cabin being in place, ergo it is not ancillary to the aforementioned cabin, the latter being chronologically and materially secondary to the gravel way.
12. That Alison Scanlon's quotation to An Bord Pleanála of the points listed above in 11., contained in her cover letter, does not match the above in its entirety, nor does the report of Padraig O'Shea and Anita Sweeney in relation to SEC5/22/02.
13. That with regard to the documentation included in Carlow County Council's referral to An Bord Pleanála, and with particular reference to the report of Padraig O'Shea and Anita Sweeney in relation to SEC5/22/02, wherein there appears to be no critical examination of our submission, and the previous report of Padraig O'Shea & Anita Sweeney in relation to SEC5/21/15, and with specific reference to SEC5/21/15, section 8) Assessment:
 - a) Carlow County Council are incorrect in their claim that, "*A total of three questions are presented in the referral received*", when in fact we made three factual statements, all three of which align with and are in keeping with the legislation pertaining to this matter.
 - b) Carlow County Council are incorrect in their claim that, "*An area of the site which is loosely graveled and includes a driveway from the entrance off the R448*", when it is a fact that the entrance gate off the R488 is sealed shut and not in use, there is no driveway but rather there is a closed, private path which improves upon an existing way and that Carlow County Council in the past 18 months have made improvements to the public footpath immediately outside the perimeter of the land, including a dip/rampway allowing for vehicular access to the land from the R448.
 - c) Carlow County Council are incorrect in their claim that, "*There is also a second gravelled access road at the front end of the site, set back from the front boundary running parallel to same*", when it is a fact that there is no second access road but rather there is a continuation of the path referenced in the above point. We say that the path terminates at the neighbouring private property and provides no public access.
 - d) Regarding the original, sparsely gravelled pathway, we have no idea how long this has been on the land, or for what purpose it was used as it was completely overgrown and not apparent to us until the very long and overgrown meadow-grass was cut and in fact, much of the pathway was under a light layer of soil upon which the grass itself grew, something of which we have first-hand cognisance.
 - e) Whilst undergoing wildflower planting at the rear of the land, we uncovered a large amount of gravel, shale, sand and other stone running adjacent to the boundary with Carlow Golf Club, as if to form another path and on foot of our investigations this work has been carried out by Carlow County Council on the land in the past.
 - f) Carlow County Council are being disingenuous in their claim that, "*At the time of the site inspection it was not evident what the wood-clad cabin or overall site was being used for*", given that at the time of the alleged site inspection we had already informed Carlow County Council, in writing, as to the use of the cabin and had invited further dialogue and discussion in the interests of clarity, an invitation which they declined. We further say that this was also included in our Section 5 Declaration, a fact which


- Carlow County Council have completely ignored, this along with the clarity proffered by us regarding the clear negation of their alleged issue regarding a material change of use of the site.
- g) When Carlow County Council state, *"As per the Planning Report on for Section 5 Declaration S521/12, the Planning Authority notes that the existing structure on site is a new, non-permanent, wood-clad cabin on a block pad foundation that constitutes 'development' within the meaning ascribed to same in Section 3 of the Act. In accordance with Section 3 of the Act the use of land shall be deemed to have materially changed when the use includes the placing or keeping of any vans or other objects, whether or not moveable and whether or not collapsible"*, they are relying upon a factually incorrect previous report, one which was not made on foot of an application by us, as the basis for this one, thereby prejudicing us in the
 - h) The cabin existed on the land prior to our ownership and was already in use as a place of occasional worship and religious instruction, therefore it is patently clear that there has been no material change of use of the structure or land.
14. That when Carlow County Council are relying specifically on Section 3(2)(b)(i) of the Act, they have deliberately omitted the entire second half of that paragraph, thus excluding context and attempting to rewrite the law, wherein the entire paragraph reads, 'the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, **for the purpose of caravanning or camping or habitation or the sale of goods**'. We further say that when this paragraph is included in its complete form, and given that none of this applies in this case, it becomes apparent that the existing structure on the site can and does not constitute 'development' within the meaning ascribed to same in Section 3 of the Act, that Carlow County Council are entirely incorrect in their assertion and in fact may be guilty of fraudulent misrepresentation of the facts.
 15. That Carlow County Council are incorrect in their claim when they say that, *"The second matter to note is that the question posed has misinterpreted the provisions of Class 15 which is contained in Part 1 of Schedule 2 of the Regulations. Class 15 is one of a number of Classes of exempted development that come under the heading of "Temporary Structures and Uses". However, Class 15 only applies to temporary uses and specifically temporary uses for an existing school, hall, club, art gallery, museum, library, reading room, gymnasium or other building that would normally be used for public worship/religious instruction such as a church. In this regard, the exact wording of Class 15 is "occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction". As a new, non-permanent structure on the site, the wood-clad cabin does not come within the meaning of any of the existing buildings/structures referred to in Class 15, notwithstanding the alleged use of the land stated by the applicants as a 'spiritual locus and regular place of worship that pre-dates the 12th Century Anglo-Norman Invasion", and that on our part, there is absolutely no misinterpretation of the provisions of Class 15. The laws, Acts, Statutes and Regulations of Ireland are clear, unambiguous, to be taken literally and are not open to interpretation. Furthermore the laws, Acts, Statutes and Regulations cannot be adjusted, amended, or excluded (partially or in their entirety) save by the Legislature and any attempt to do so is of serious offence. We further say that this is an attempt by Carlow County Council to obfuscate the matter in a manner that is clearly prejudicial to us.*
 16. That Pdraig O'Shea and Anita Sweeney are choosing to interpret the provisions of Class 15, wherein they state that Class 15 *"only applies to temporary uses"*, completely ignoring the literal fact that temporary structures are referred to both in the heading and the body, with specific reference to "public worship or religious instruction".
 17. That notwithstanding the fact that Carlow County Council themselves previously and on the Record state that the cabin is pre-existing, there is absolutely no mention of the word 'existing' wherein the exact wording of Class 15 is *"occasional use for social or recreational purposes of any school, hall, club, art gallery, museum, library, reading room, gymnasium or any structure normally used for public worship or religious instruction"* and that Carlow County Council are inserting additional wording to suit themselves, in effect re-writing the law.
 18. That it is a fact that the non-permanent, i.e. temporary, cabin clearly and unambiguously comes within the meaning of *"any structure normally used for public worship or religious instruction"*.
 19. That the repeatedly selective and demonstrably disingenuous approach to this matter by Carlow County Council is highly prejudicial to us and a very serious matter. Given that the law is clear when stating that

under the category of 'Temporary Structures and Uses', Class 15 applies to "any structure normally used for public worship or religious instruction" and does not place any further limitations on either of the above and given that our cabin is a temporary structure, is normally used for religious instruction and facilitates occasional social activity related to same, we further say that it is very clear that would fall under Class 15, this notwithstanding the clear, unambiguous and demonstrated fact that under the Statutory and clearly defined meaning ascribed to the word itself, our activities do not comprise 'development' in the first instance.

20. That Carlow County Council are incorrect in their claim that, *"From a review of the Act and Regulations, there are no relevant exempted development provisions applying to the placement of the wood-clad cabin on the site and the structure does not have the benefit of planning permission. For these reasons the structure is considered to compromise unauthorised development"*, and we further say that as we have previously demonstrated that we do not fall under the Statutory definition of 'development', it does not stand to reason and is demonstrably untrue that the structure can comprise unauthorised development and that the consideration of Carlow County Council in this regard is misplaced.
21. That regarding Carlow County Council's claim that *"It is considered that sufficient information has not been provided to enable a determination to be made on whether the stated improvement to a pre-existing gravel way and construction of a private footpath not exceeding 3 metres comes within the scope of Class 13."*, and given that an alleged inspection was carried out on 12/12/21, we were not requested at any point to provide further information to Carlow County Council and further given the absence of any legal requirement on our part to do so, it is clear that we fulfilled all Statutory obligations in this regard. We further say that Furthermore we made repeated attempts both on the phone and in writing to engage further with Carlow County Council in an attempt to discuss and resolve the matter amicably, all of which were either ignored or rejected by them and we say that this important context has been omitted from Carlow County Council's submissions. We further say that Class 13 is clear and unambiguous wherein it does state, "The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving" provided that "the width of any such private footpath or paving shall not exceed 3 metres" and given the facts it is equally clear that Class 13 applies in this case and it is a fact that Carlow County Council's considerations must be framed by, guided by and come within the scope and restrictions of the law and that it is abundantly clear that this is not the case in this matter.
22. That Carlow County Council's claim that, *"From a review of Google Streetview imagery for the years 2009, 2011, 2014 and 2018, the entirety of the site area appears as greenfield under grass, and the existence of an overgrown gravel way or footpath cannot be discerned. In addition, apart from a covering letter, no other details, plans or other particulars are provided regarding the stated overgrown gravel way, footpath or regarding the current gravelled driveway and access road"* is of no evidential value whatsoever in light of the fact that the existence of the original pathway was not apparent to anyone until such a time as the grass had been cut short, and that this is an attempt by them to call our character and moral and ethical standing into question in order further obfuscate the matter, thus further prejudiced us.
23. That Carlow County Council are incorrect in their claim that, *"Irrespective of whether the gravelled driveway and access road come within the scope of Class 13, it is considered the unauthorised development status of the wood-clad cabin triggers the restrictions on exemptions in Article 9 of the Regulations. Article 9(1)(a)(viii) provides that development to which the Classes of exempted development in Schedule 2 of the Regulations apply (i.e. Class 13), shall not be exempted where the development would "consist of or comprise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is unauthorized use". It is apparent that the stated repair and improvement of a previously overgrown gravel way is connected with and ancillary to the placement and use of the wood-clad cabin on the site. For this reason, it is considered that the restrictions on exemptions in Article 9(1)(a)(viii) would apply"*, given the clear, demonstrative and irrefutable fact that there exists no legally-grounded foundation for Carlow County Council's allegation that the cabin constitutes 'development' and further that we have demonstrated the opposite to be the case and it being glaringly apparent that the cabin cannot be 'unauthorised' as authorisation is not in point of fact legally required, ergo the restrictions on exemptions in Article 9(1)(a)(viii) cannot be triggered and do not apply. We further say that that the pathway was in existence and had been improved upon prior to the cabin being put in place, ergo it is not ancillary to the aforementioned cabin, the latter being chronologically and

materially secondary to the gravel way, thus rendering Carlow County Council's assertion that "the stated repair and improvement of a previously overgrown gravel way is connected with and ancillary to the placement and use of the wood-clad cabin on the site" completely false.

24. That work on the pathway took place separate to the placement of the cabin.
25. That with reference to the claims of Carlow County Council that this matter is subject to legal proceedings, this is something of which we have no knowledge and have not been informed. We further say that this raises serious questions regarding the practices of Carlow County Council and whether or not they are acting in legal controversy and engaging in illegality as it is true that we have been harassed and threatened through their menacing behavior, which has resulted in a hugely negative impact on our mental health and an unquestionable loss of our enjoyment of life.
26. That two separate third parties, neither of whom have anything to do with this case, have been issued legal threats relating to the matter by Carlow County Council and are also in breach of a number of GDPR laws in this regard, inter alia.
27. That it is the case that Carlow County Council must work within the strict, literal and unambiguous confines of the relevant Acts and Statutes and the laws of Ireland, something that has manifestly not been the case in this matter.
28. That it is a demonstrable and demonstrated fact that our activity does not constitute development within the meaning ascribed to same in Section 3 of the Planning and Development Act 2000 and furthermore but notwithstanding the above, our activity is indeed legally and lawfully exempt and outside the confines of the laws governing the legal necessity for Planning Permission.



Robert Mullins & John Gibbons

Sworn before me by the said Robert Mullins and John Gibbons on the
1st day of April 2022
at O'clock in the forenoon/afternoon at
Athy Road in the County/City
of Carlow before me a practicing
solicitor / Commissioner for oaths, and I know the
deponent/ The deponents have been made known to
me by _____

Name:

Commissioner for Oaths/practising solicitor

Nichola Delaney Solicitor
O' Flaherty & Brown Solicitors

Greeneville

Athy Road

Carlow

059 91 40500